

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARCELLINO JIMENEZ,

Plaintiff,

-against-

SQUARE FOOD AND CAFE, INC.,

Defendant.

24-CV-3361 (RFT)

ORDER**ROBYN F. TARNOFSKY, United States Magistrate Judge.****PROCEDURAL HISTORY**

This case is an action for money damages under the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq. (“FLSA”) and the New York Labor Law (“NYLL”), originally brought by Plaintiffs Marcellino Jimenez and Fidel Guzman. Guzman and Defendant subsequently settled, which settlement was approved by the Court as fair and reasonable. (ECF 47.)

On January 8, 2025, I issued an order granting the request by Plaintiffs’ counsel to withdraw as counsel for Jimenez (ECF 39). I gave Jimenez until February 10, 2025 to retain new counsel to file a notice of appearance on his behalf or to let the Court know that he wished to proceed without a lawyer. (ECF 42.) He failed to do so, and I issued an order to show cause why his case should not be dismissed for failure to prosecute; the order to show cause was returnable on March 21, 2025. (ECF 48.) Jimenez failed to timely comply with the order to show cause, and I retroactively extended his time to do so until April 30, 2025. (ECF 49.) To date, the docket does not indicate that replacement counsel has been retained by Jimenez; nor has Jimenez confirmed a desire to continue litigating this action without counsel.

Accordingly, this matter is scheduled for a telephonic status on **May 22, 2025 at 2:30 PM**.

Jimenez and counsel for Defendant are directed to call my conference line at the scheduled time by dialing **(646) 453-4442, Access Code: 867 867 396 #**.

Jimenez is cautioned that failure to appear at the conference, without prior notice to the Court, may result in a recommendation to Judge Ronnie Abrams to dismiss Jimenez's case for failure to prosecute under Federal Rule of Civil Procedure 41(b).¹

Dated: May 6, 2025
New York, New York

SO ORDERED.



ROBYN F. TARNOFSKY
United States Magistrate Judge

¹ On February 10, 2025, Guzman and Defendant filed their consent to my disposition of this action pursuant to 28 U.S.C. Section 636(c)(3). (ECF 46, Notice of Consent.). At that time, Jimenez was no longer represented by counsel (see ECF 42) and he has not consented to my jurisdiction (see ECF 46). Therefore, I can recommend dismissal of Jimenez's action, but I cannot order a final disposition of his claims. *See New York Chinese TV Programs, Inc. v. U.E. Enters., Inc.*, 996 F.2d 21, 23 (2d Cir. 1993) (holding that a party's consent to be bound by the judgment of a magistrate judge "must be clear and express").